

United States Senate

WASHINGTON, DC 20510

162

February 28, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai,

We write to convey our strong opposition to your recent effort to undermine the Federal Communications Commission's (FCC) broadband privacy rules.


Internet Service Providers (ISPs) serve as gatekeepers that control the infrastructure that Americans depend on to access vital applications and services. ISPs can use this privileged position to collect, use, and share sensitive information about subscribers' finances, religious affiliations, family and numerous other pieces of personal data by mining their web and app usage history and geolocation. Yet, many consumers have limited choice for broadband service and cannot necessarily change ISPs if their privacy protections are not transparent or robust.


This unique carrier-customer relationship is why the FCC wisely chose to promulgate broadband privacy rules that ensure consumers, not ISPs, have control over their information. The rules give consumers, who already pay their ISP for internet access, more power to choose if their sensitive information can be used or shared by ISPs and require ISPs to adopt data security protections and notify consumers if a breach occurs. Further, these protections promote transparency by mandating that ISPs disclose what they collect about consumers.

We support these responsible privacy protections and strongly encourage you not to take any actions that weaken these rules. Regrettably, the FCC's Office of Media Relations recent announcement states that you intend to stop the implementation of the data security protections, which are to go into effect on March 2, 2017. Your proposal comes despite the mounting number of data breaches impacting consumers throughout the country. We oppose your efforts and believe it would make subscribers' sensitive information more vulnerable to breaches and unauthorized use.

As other key portions of the broadband privacy rules begin to go into effect, we strongly urge you not to weaken other parts of the rules. Privacy protections and data security simply cannot be put on hold. Thank you for your attention to this important matter.

Sincerely,


Edward J. Markey
United States Senator


Richard Blumenthal
United States Senator



Elizabeth Warren
United States Senator



Al Franken
United States Senator



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

March 7, 2017

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Blumenthal:

Thank you for your letter concerning the Commission's decision to partially grant, on an interim basis, the petition submitted by nine trade associations¹ for a stay of the *2016 Privacy Order*.² The stay issued by the Commission pertained only to the data security requirement and will remain in effect only until the FCC is able to rule on pending petitions for reconsideration. The reasons set forth below explain the Commission's action.

I am committed to protecting the online privacy of American consumers—a uniform expectation they rightfully have when they access the Internet. My view is that there should be a comprehensive and consistent framework for protecting digital privacy. There should not be one standard for Internet service providers and another for other online companies. The government should not treat one set of companies differently than others. Unfortunately, the prior FCC stripped the Federal Trade Commission (FTC) of its jurisdiction over Internet service providers' privacy practices, creating a disjointed online privacy framework that disregards consumers' uniform expectation of privacy and tilts the regulatory playing field.

American consumers should not have to be lawyers or engineers to figure out if their information is protected. And such protection should not vary depending on the regulatory classification of the Internet-related company that holds it. In a joint statement I released with the FTC Acting Chairman, Maureen Ohlhausen, we explained that jurisdiction over Internet service providers' privacy and data security practices should be returned to the FTC so that all entities in the online space can be subject to the same rules. But until that happens, my hope is that the FCC and the FTC will work together to establish a simple, unified framework that protects all consumers.

The data security requirement adopted by the Commission was not consistent with the FTC's standards. Accordingly, in order to provide an opportunity to harmonize the Commission's rules for Internet service providers with the FTC's existing standards, we granted

¹ See Joint Petition of American Cable Association et al. for Stay, WC Docket No. 16-106 (Jan. 27, 2017), <https://ecfsapi.fcc.gov/file/101270254521574/012717%20Petition%20for%20Stay.pdf>.

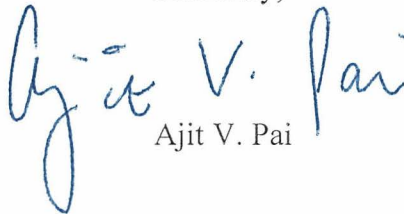
² *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106, Report and Order, 31 FCC Rcd 13911 (2016).

a narrow stay of the data security rule before it could take effect on March 2. The stay will remain in place until the FCC is able to rule on the pending petitions for reconsideration of the privacy rules. The stay is thus simply a necessary stopgap measure as we work toward a unified online privacy system.

It is important to note that the stay will maintain the status quo that has been in place for nearly two years with respect to Internet service providers. Consumers will not suddenly be at greater risk. Moreover, Internet service providers have been—and will continue to be—obligated to comply with Section 222 of the Communications Act and other applicable federal and state privacy, data security, and breach notification laws.

I appreciate your interest in this matter and I look forward to working with you as we pursue the goal of protecting consumers. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" being the most prominent part.

Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 7, 2017

The Honorable Al Franken
United States Senate
309 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Franken:

Thank you for your letter concerning the Commission's decision to partially grant, on an interim basis, the petition submitted by nine trade associations¹ for a stay of the *2016 Privacy Order*.² The stay issued by the Commission pertained only to the data security requirement and will remain in effect only until the FCC is able to rule on pending petitions for reconsideration. The reasons set forth below explain the Commission's action.

I am committed to protecting the online privacy of American consumers—a uniform expectation they rightfully have when they access the Internet. My view is that there should be a comprehensive and consistent framework for protecting digital privacy. There should not be one standard for Internet service providers and another for other online companies. The government should not treat one set of companies differently than others. Unfortunately, the prior FCC stripped the Federal Trade Commission (FTC) of its jurisdiction over Internet service providers' privacy practices, creating a disjointed online privacy framework that disregards consumers' uniform expectation of privacy and tilts the regulatory playing field.

American consumers should not have to be lawyers or engineers to figure out if their information is protected. And such protection should not vary depending on the regulatory classification of the Internet-related company that holds it. In a joint statement I released with the FTC Acting Chairman, Maureen Ohlhausen, we explained that jurisdiction over Internet service providers' privacy and data security practices should be returned to the FTC so that all entities in the online space can be subject to the same rules. But until that happens, my hope is that the FCC and the FTC will work together to establish a simple, unified framework that protects all consumers.

¹ See Joint Petition of American Cable Association et al. for Stay, WC Docket No. 16-106 (Jan. 27, 2017), <https://ecfsapi.fcc.gov/file/101270254521574/012717%20Petition%20for%20Stay.pdf>.

² *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106, Report and Order, 31 FCC Rcd 13911 (2016).

a narrow stay of the data security rule before it could take effect on March 2. The stay will remain in place until the FCC is able to rule on the pending petitions for reconsideration of the privacy rules. The stay is thus simply a necessary stopgap measure as we work toward a unified online privacy system.

It is important to note that the stay will maintain the status quo that has been in place for nearly two years with respect to Internet service providers. Consumers will not suddenly be at greater risk. Moreover, Internet service providers have been—and will continue to be—obligated to comply with Section 222 of the Communications Act and other applicable federal and state privacy, data security, and breach notification laws.

I appreciate your interest in this matter and I look forward to working with you as we pursue the goal of protecting consumers. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" being the most prominent part.

Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 7, 2017

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Markey:

Thank you for your letter concerning the Commission's decision to partially grant, on an interim basis, the petition submitted by nine trade associations¹ for a stay of the *2016 Privacy Order*.² The stay issued by the Commission pertained only to the data security requirement and will remain in effect only until the FCC is able to rule on pending petitions for reconsideration. The reasons set forth below explain the Commission's action.

I am committed to protecting the online privacy of American consumers—a uniform expectation they rightfully have when they access the Internet. My view is that there should be a comprehensive and consistent framework for protecting digital privacy. There should not be one standard for Internet service providers and another for other online companies. The government should not treat one set of companies differently than others. Unfortunately, the prior FCC stripped the Federal Trade Commission (FTC) of its jurisdiction over Internet service providers' privacy practices, creating a disjointed online privacy framework that disregards consumers' uniform expectation of privacy and tilts the regulatory playing field.

American consumers should not have to be lawyers or engineers to figure out if their information is protected. And such protection should not vary depending on the regulatory classification of the Internet-related company that holds it. In a joint statement I released with the FTC Acting Chairman, Maureen Ohlhausen, we explained that jurisdiction over Internet service providers' privacy and data security practices should be returned to the FTC so that all entities in the online space can be subject to the same rules. But until that happens, my hope is that the FCC and the FTC will work together to establish a simple, unified framework that protects all consumers.

¹ See Joint Petition of American Cable Association et al. for Stay, WC Docket No. 16-106 (Jan. 27, 2017), <https://ecfsapi.fcc.gov/file/101270254521574/012717%20Petition%20for%20Stay.pdf>.

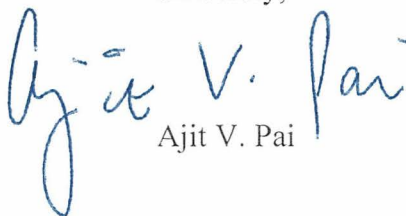
² *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106, Report and Order, 31 FCC Rcd 13911 (2016).

The data security requirement adopted by the Commission was not consistent with the FTC's standards. Accordingly, in order to provide an opportunity to harmonize the Commission's rules for Internet service providers with the FTC's existing standards, we granted a narrow stay of the data security rule before it could take effect on March 2. The stay will remain in place until the FCC is able to rule on the pending petitions for reconsideration of the privacy rules. The stay is thus simply a necessary stopgap measure as we work toward a unified online privacy system.

It is important to note that the stay will maintain the status quo that has been in place for nearly two years with respect to Internet service providers. Consumers will not suddenly be at greater risk. Moreover, Internet service providers have been—and will continue to be—obligated to comply with Section 222 of the Communications Act and other applicable federal and state privacy, data security, and breach notification laws.

I appreciate your interest in this matter and I look forward to working with you as we pursue the goal of protecting consumers. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Ajit V. Pai". The signature is stylized, with the first name "Ajit" written in a large, flowing script, and "V. Pai" written in a smaller, more formal script to the right.

Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 7, 2017

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your letter concerning the Commission's decision to partially grant, on an interim basis, the petition submitted by nine trade associations¹ for a stay of the *2016 Privacy Order*.² The stay issued by the Commission pertained only to the data security requirement and will remain in effect only until the FCC is able to rule on pending petitions for reconsideration. The reasons set forth below explain the Commission's action.

I am committed to protecting the online privacy of American consumers—a uniform expectation they rightfully have when they access the Internet. My view is that there should be a comprehensive and consistent framework for protecting digital privacy. There should not be one standard for Internet service providers and another for other online companies. The government should not treat one set of companies differently than others. Unfortunately, the prior FCC stripped the Federal Trade Commission (FTC) of its jurisdiction over Internet service providers' privacy practices, creating a disjointed online privacy framework that disregards consumers' uniform expectation of privacy and tilts the regulatory playing field.

American consumers should not have to be lawyers or engineers to figure out if their information is protected. And such protection should not vary depending on the regulatory classification of the Internet-related company that holds it. In a joint statement I released with the FTC Acting Chairman, Maureen Ohlhausen, we explained that jurisdiction over Internet service providers' privacy and data security practices should be returned to the FTC so that all entities in the online space can be subject to the same rules. But until that happens, my hope is that the FCC and the FTC will work together to establish a simple, unified framework that protects all consumers.

¹ See Joint Petition of American Cable Association et al. for Stay, WC Docket No. 16-106 (Jan. 27, 2017), <https://ecfsapi.fcc.gov/file/101270254521574/012717%20Petition%20for%20Stay.pdf>.

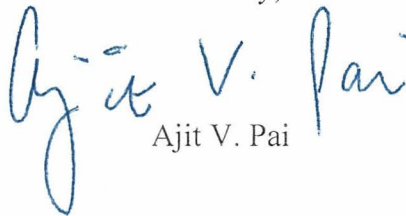
² *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106, Report and Order, 31 FCC Rcd 13911 (2016).

The data security requirement adopted by the Commission was not consistent with the FTC's standards. Accordingly, in order to provide an opportunity to harmonize the Commission's rules for Internet service providers with the FTC's existing standards, we granted a narrow stay of the data security rule before it could take effect on March 2. The stay will remain in place until the FCC is able to rule on the pending petitions for reconsideration of the privacy rules. The stay is thus simply a necessary stopgap measure as we work toward a unified online privacy system.

It is important to note that the stay will maintain the status quo that has been in place for nearly two years with respect to Internet service providers. Consumers will not suddenly be at greater risk. Moreover, Internet service providers have been—and will continue to be—obligated to comply with Section 222 of the Communications Act and other applicable federal and state privacy, data security, and breach notification laws.

I appreciate your interest in this matter and I look forward to working with you as we pursue the goal of protecting consumers. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" being the most prominent part, followed by "V." and "Pai".

Ajit V. Pai